

REMARKS

Claims 1 and 3-21 are pending in the application, claim 1 being canceled and claim 21 being newly added herein. Claims 1, 19, and 21 are the only independent claims.

Claims Rejections - 35 U.S.C. §§ 102 and 103

Claims 1-3, 10-16, and 18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication No. 2002/0092200 (Boncutter) in view of French Patent Document No. 2 595 213 (Serve).

Claims 1, 9-16, and 18-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Boncutter in view of either U.S. Patent No. 1,803,554 to Knilans or U.S. Patent No. 5,651,195 to Clancy and U.S. Patent No. 1,681,548 to Marcus.

The Examiner has indicated that claims 4-8 would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims.

Claim 1 Applicant has amended claim 1 herein to provide a better definition of the invention. In particular, claim 1 has been amended to include the limitations of claim 2, which has been canceled, as well as additional recitations. Applicant respectfully maintains that claim 1 distinguishes the invention over the prior art and particularly over the art relied on by the Examiner in rejecting the claims of the instant application.

As recited in amended claim 1, a shoe comprises an outsole, an insole provided with at least one aperture, an upper including an elongate element, and a grommet inserted into the aperture. The insole is attached to the outsole along an upper surface thereof, while the aperture extends through the insole to the upper surface of the outsole. The elongate element extends into the grommet and is attached at least indirectly to the

outsole. The grommet extends only partway into the aperture from an upper surface of the insole and is accordingly spaced from the upper surface of the outsole.

As pointed out by the Examiner, Boncutter discloses a shoe similar to that claimed by applicant, but does not disclose a grommet.

Serve discloses a grommet that extends only partway into an aperture of a sole member. However, that grommet necessarily extends from the *bottom* of the sole member. There is no suggestion in Serve or any other reference of modifying the Serve shoe to have a grommet extending partway into an sole aperture from the upper surface of the sole member.

The other references disclose grommets that extend completely through the respective aperture. These grommets are in the nature of rivets and have flanges disposed along opposing surfaces of the element traversed by the respective aperture.

None of the references of record, whether considered individually or collectively, either discloses or suggests a shoe with an insole, an outsole, and a grommet extending only partway into an aperture in the insole from an upper surface thereof so that the grommet is spaced from an upper surface of the outsole.

Claim 19 Amended claim 19 is directed to a shoe comprising (a) an outsole and (b) an insole provided with at least one aperture, the insole being attached to the outsole along an upper surface thereof, the aperture extending through the insole to the upper surface of the outsole. The shoe further comprises (c) an upper including an elongate element inserted through the aperture and (d) a reinforcement member attached to the insole along only an upper side of the aperture for protecting material of the insole from stresses inflicted by the elongate element of the upper.

None of the references relied on by the Examiner, whether considered singly or in combination, either discloses or suggests a shoe having a reinforcement member attached

to the shoe insole along only an upper side of an aperture in the insole for protecting material of the insole from stresses inflicted by an elongate element of the shoe upper.

Boncutter discloses no such reinforcement element. Serve teaches the provision of a grommet or reinforcement element only along a bottom side of an aperture in a shoe sole member. The other references disclose grommets that extend completely through the respective aperture. These grommets are in the nature of rivets and have flanges disposed along opposing surfaces of the element traversed by the respective aperture.

Claim 21 New claim 21 includes recitations from original claim 1 and claim 4 and is directed to a shoe comprising an outsole and an insole provided with at least one aperture. The insole is attached to the outsole along an upper surface thereof. The aperture extends through the insole to the upper surface of the outsole. An upper of the shoe includes an elongate element. A grommet is inserted into the aperture. The elongate element extends into the grommet and is attached at least indirectly to the outsole. The grommet includes a flange adhesively bonded to an upper surface of the insole.

None of the references disclose or suggest an adhesive bonding of a grommet flange. In Serve, the grommet is anchored to the sole member by a barb or tooth, whereas in the other references, the grommet is attached to the respective shoe element by a crimping (clamping) process. There is no need for adhesive to bond a flange of these prior art grommets to their substrates.

Conclusion

For the foregoing reasons, independent claims 1, 19, and 21, as well as the claims dependent therefrom, are deemed to be in condition for allowance. An early Notice to that effect is earnestly solicited.

Should the Examiner believe that direct contact with applicant's attorney would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the number below.

Respectfully submitted,

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